

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Edward Herbst, et al.

v.

Civil No. 09-cv-00233-JL

Attitash Bear Peak Resort

**ORDER AFTER PRELIMINARY  
PRETRIAL CONFERENCE**

The Preliminary Pretrial Conference was held in chambers on **September 9, 2009.**

The Discovery Plan (document no. 5) is **not approved** as counsel anticipates possible delays in the plaintiff's expert inspection of the Alpine Slide. On or before **October 30, 2009**, the parties shall file a revised joint discovery plan that includes the following features:

- a DiBenedetto disclosure deadline;
- a discovery completion date that precedes the summary judgment deadline; and
- a trial date at least 120 days after the summary judgment deadline.

**Summary Judgment.** The parties and counsel are advised that compliance with Rule 56(e) and Local Rule 7.2(b), regarding evidentiary support for factual assertions, and specification and

delineation of material issues of disputed fact, will be required.

**Discovery disputes.** Discovery disputes will be handled by the undersigned judge, as opposed to the Magistrate Judge, in the normal course. No motion to compel is necessary. The party or counsel seeking discovery-related relief should confer with adverse counsel to choose mutually available dates, and then contact the Deputy Clerk to schedule a conference call with the court. The court will inform counsel and parties what written materials, if any, should be submitted in advance of the conference call.

Customary motions to compel discovery, while disfavored by the undersigned judge, are nonetheless permissible. If counsel prefer traditional discovery litigation to the conference call procedure set forth above, any such motion to compel should expressly request, in the title of the motion, a referral to the United States Magistrate Judge. Such referral requests will normally be granted.

**SO ORDERED.**



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Joseph N. Laplante  
United States District Judge

Dated: September 9, 2009  
cc: R. Peter Taylor, Esq.  
Thomas B.S. Quarles, Jr., Esq.